



General Assembly

February Session, 2010

Raised Bill No. 5531

LCO No. 2500

02500_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE ADMISSIBILITY OF MEDICAL BILLS IN
CIVIL ACTIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-572h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010, and*
3 *applicable to actions filed on or after said date*):

4 (a) For the purposes of this section: (1) "Economic damages" means
5 compensation determined by the trier of fact for pecuniary losses
6 including, but not limited to, the cost of reasonable and necessary
7 medical care, rehabilitative services, custodial care and loss of earnings
8 or earning capacity excluding any noneconomic damages; (2)
9 "noneconomic damages" means compensation determined by the trier
10 of fact for all nonpecuniary losses including, but not limited to,
11 physical pain and suffering and mental and emotional suffering; (3)
12 "recoverable economic damages" means the economic damages
13 reduced by any applicable findings including but not limited to
14 set-offs, credits, comparative negligence, additur and remittitur, and
15 any reduction provided by section 52-225a; (4) "recoverable
16 noneconomic damages" means the noneconomic damages reduced by

17 any applicable findings including but not limited to set-offs, credits,
18 comparative negligence, additur and remittitur; and (5) "health care
19 provider" has the meaning set forth in section 52-184b.

20 (b) In causes of action based on negligence, contributory negligence
21 shall not bar recovery in an action by any person or the person's legal
22 representative to recover damages resulting from personal injury,
23 wrongful death or damage to property if the negligence was not
24 greater than the combined negligence of the person or persons against
25 whom recovery is sought including settled or released persons under
26 subsection (n) of this section. The economic or noneconomic damages
27 allowed shall be diminished in the proportion of the percentage of
28 negligence attributable to the person recovering which percentage
29 shall be determined pursuant to subsection (f) of this section.

30 (c) In a negligence action to recover damages resulting from
31 personal injury, wrongful death or damage to property occurring on or
32 after October 1, 1987, if the damages are determined to be proximately
33 caused by the negligence of more than one party, each party against
34 whom recovery is allowed shall be liable to the claimant only for such
35 party's proportionate share of the recoverable economic damages and
36 the recoverable noneconomic damages except as provided in
37 subsection (g) of this section.

38 (d) The proportionate share of damages for which each party is
39 liable is calculated by multiplying the recoverable economic damages
40 and the recoverable noneconomic damages by a fraction in which the
41 numerator is the party's percentage of negligence, which percentage
42 shall be determined pursuant to subsection (f) of this section, and the
43 denominator is the total of the percentages of negligence, which
44 percentages shall be determined pursuant to subsection (f) of this
45 section, to be attributable to all parties whose negligent actions were a
46 proximate cause of the injury, death or damage to property including
47 settled or released persons under subsection (n) of this section. Any
48 percentage of negligence attributable to the claimant shall not be

49 included in the denominator of the fraction.

50 (e) (1) In any action to which this section is applicable, the
51 instructions to the jury given by the court shall include an explanation
52 of the effect on awards and liabilities of the percentage of negligence
53 found by the jury to be attributable to each party.

54 (2) In any action to which this section is applicable, evidence that a
55 health care provider accepted an amount less than the total amount of
56 any bill generated by the health care provider shall not be admissible
57 on the issue of the cost of reasonable and necessary medical care.

58 (f) The jury or, if there is no jury, the court shall specify: (1) The
59 amount of economic damages; (2) the amount of noneconomic
60 damages; (3) any findings of fact necessary for the court to specify
61 recoverable economic damages and recoverable noneconomic
62 damages; (4) the percentage of negligence that proximately caused the
63 injury, death or damage to property in relation to one hundred per
64 cent, that is attributable to each party whose negligent actions were a
65 proximate cause of the injury, death or damage to property including
66 settled or released persons under subsection (n) of this section; and (5)
67 the percentage of such negligence attributable to the claimant.

68 (g) (1) Upon motion by the claimant to open the judgment filed,
69 after good faith efforts by the claimant to collect from a liable
70 defendant, not later than one year after judgment becomes final
71 through lapse of time or through exhaustion of appeal, whichever
72 occurs later, the court shall determine whether all or part of a
73 defendant's proportionate share of the recoverable economic damages
74 and recoverable noneconomic damages is uncollectible from that
75 party, and shall reallocate such uncollectible amount among the other
76 defendants in accordance with the provisions of this subsection. (2)
77 The court shall order that the portion of such uncollectible amount
78 which represents recoverable noneconomic damages be reallocated
79 among the other defendants according to their percentages of
80 negligence, provided that the court shall not reallocate to any such

81 defendant an amount greater than that defendant's percentage of
82 negligence multiplied by such uncollectible amount. (3) The court shall
83 order that the portion of such uncollectible amount which represents
84 recoverable economic damages be reallocated among the other
85 defendants. The court shall reallocate to any such other defendant an
86 amount equal to such uncollectible amount of recoverable economic
87 damages multiplied by a fraction in which the numerator is such
88 defendant's percentage of negligence and the denominator is the total
89 of the percentages of negligence of all defendants, excluding any
90 defendant whose liability is being reallocated. (4) The defendant
91 whose liability is reallocated is nonetheless subject to contribution
92 pursuant to subsection (h) of this section and to any continuing
93 liability to the claimant on the judgment.

94 (h) (1) A right of contribution exists in parties who, pursuant to
95 subsection (g) of this section are required to pay more than their
96 proportionate share of such judgment. The total recovery by a party
97 seeking contribution shall be limited to the amount paid by such party
98 in excess of such party's proportionate share of such judgment.

99 (2) An action for contribution shall be brought within two years
100 after the party seeking contribution has made the final payment in
101 excess of such party's proportionate share of the claim.

102 (i) This section shall not limit or impair any right of subrogation
103 arising from any other relationship.

104 (j) This section shall not impair any right to indemnity under
105 existing law. Where one tortfeasor is entitled to indemnity from
106 another, the right of the indemnitee is for indemnity and not
107 contribution, and the indemnitor is not entitled to contribution from
108 the indemnitee for any portion of such indemnity obligation.

109 (k) This section shall not apply to breaches of trust or of other
110 fiduciary obligation.

111 (l) The legal doctrines of last clear chance and assumption of risk in
112 actions to which this section is applicable are abolished.

113 (m) The family car doctrine shall not be applied to impute
114 contributory or comparative negligence pursuant to this section to the
115 owner of any motor vehicle or motor boat.

116 (n) A release, settlement or similar agreement entered into by a
117 claimant and a person discharges that person from all liability for
118 contribution, but it does not discharge any other persons liable upon
119 the same claim unless it so provides. However, the total award of
120 damages is reduced by the amount of the released person's percentage
121 of negligence determined in accordance with subsection (f) of this
122 section.

123 (o) Except as provided in subsection (b) of this section, there shall be
124 no apportionment of liability or damages between parties liable for
125 negligence and parties liable on any basis other than negligence
126 including, but not limited to, intentional, wanton or reckless
127 misconduct, strict liability or liability pursuant to any cause of action
128 created by statute, except that liability may be apportioned among
129 parties liable for negligence in any cause of action created by statute
130 based on negligence including, but not limited to, an action for
131 wrongful death pursuant to section 52-555 or an action for injuries
132 caused by a motor vehicle owned by the state pursuant to section 52-
133 556.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010, and applicable to actions filed on or after said date</i>	52-572h

Statement of Purpose:

To provide that evidence that a health care provider accepted a reduced amount of payment shall not be admissible for determining economic damages in civil actions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]